

# STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION  
302 W. WASHINGTON STREET, SUITE E-306  
INDIANAPOLIS, INDIANA 46204-2764

<http://www.state.in.us/iurc/>  
Office: (317) 232-2701  
Facsimile: (317) 232-6758

**SUBMISSION OF INDIANA BELL TELEPHONE )  
COMPANY, INCORPORATED D/B/A SBC )  
INDIANA FOR COMMISSION RECOGNITION )  
OF AN AMENDMENT TO AN )  
INTERCONNECTION AGREEMENT ARRIVED )  
THROUGH VOLUNTARY NEGOTIATIONS )  
WITH SAGE TELECOM, INC. )**

**FILED**

**CAUSE NO. 41268-INJ123ND 09 2004**

**INDIANA UTILITY  
REGULATORY COMMISSION**

You are hereby notified that on this date the Presiding Officers in this Cause make the following Entry:

In a letter dated May 5, 2004, the Indiana Utility Regulatory Commission ("Commission") directed Indiana Bell Telephone Company, Incorporated, d/b/a SBC Indiana ("SBC Indiana") and Sage Telecom, Inc. ("Sage") to submit to the Commission their recently negotiated interconnection agreement in its entirety ("Agreement"). This letter was sent in an effort to ensure compliance with the federal Telecommunications Act of 1996 ("Act"). Section 251 of the Act establishes the obligation among telecommunications carriers, pursuant to agreements reached through good faith negotiations, to provide access to equipment, facilities and services and for interconnection among carriers' networks. Section 252 of the Act requires that any voluntarily negotiated agreement for interconnection, services, or network elements be submitted for approval to the state commission and that the state commission shall either approve the agreement or reject it in whole or in part if it is determined that the agreement, or any portion thereof: (1) discriminates against a telecommunications carrier not a party to the agreement or (2) is not consistent with the public interest, convenience, and necessity.

In a response dated May 14, 2004, SBC Indiana and Sage stated that the Agreement, while containing some provisions negotiated under obligations imposed by the Act, also contains provisions that comprise a private commercial agreement not covered by the Act and, therefore, there is no requirement that the entire Agreement be filed with the Commission under Section 252 of the Act. We note that on May 5, 2004, SBC Indiana filed a tenth amendment to the interconnection agreement in Cause No. 41268-INJ-123ND. This amendment purports to have been reached through voluntary negotiations among SBC Indiana, its affiliate companies, and Sage. We also note that on May 20, 2004, SBC Indiana and Sage submitted to the Commission a "redacted public copy of our privately negotiated commercial agreement." SBC Indiana and Sage stated that said submission was appropriate insofar as the same redacted copy had been provided to the Texas and Michigan Commissions. It is obvious, therefore, that the documents received by the Commission on May 5 and 20, 2004, while related to the same result of negotiations between SBC Indiana and Sage, do not, either individually or collectively, constitute the entire Agreement between SBC Indiana and Sage.

An interconnection agreement that is submitted to the Commission is not normally docketed as a separate Cause. A separate docket has been created herein out of concern that an entire interconnection agreement or amendment thereto has not been submitted in accordance with Section 252 of the Act. Pursuant to the procedures established in the Commission's December 19, 2001 Order in Cause No. 39983, an interconnection agreement or amendment thereto, would, absent objection, be accepted thirty (30) days after the date it is posted on the Commission's website. This Commission procedure provides a time period that is shorter than the ninety (90) day time period that Section 252(e) of the Act allows for a state commission to approve or reject an interconnection agreement. However, until such time as the Commission is satisfied in this Cause that it has received the entirety of the Agreement subject to review under Section 252, we find that there has been no trigger of either the state or federal time period that would result in the Agreement, or any part thereof, (including the submissions made on May 5 and 20 or the unredacted version of the May 20 submission) being accepted, deemed approved, or made subject to any other requirement that might otherwise be imposed on the Commission.

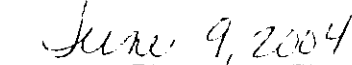
SBC Indiana and Sage make the argument that part of their "privately negotiated commercial arrangement" is not covered by the requirements of the Act; that Section 252's applicability to a "request for interconnection" does not describe SBC Indiana's and Sage's voluntary, business relationship. This is a unique concept in the context of the federal purpose to ensure that negotiated agreements for interconnection, services, or network elements are non-discriminatory as to non-parties and are in the public interest. The redacted document submitted to the Commission on May 20, 2004, though purportedly not submitted pursuant to the requirement to submit an interconnection agreement, contains terms that appear to be consistent with terms found in interconnection agreements. Obviously, we do not know the terms of the redacted portions. We find, therefore, that the entire Agreement should be submitted and reviewed in the context of an interconnection agreement.

Within ten (10) days of the date of this Entry, SBC Indiana and Sage should submit to the Commission the entirety of their Agreement.

**IT IS SO ORDERED.**

  
Judith G. Ripley, Commissioner

  
William G. Divine, Administrative Law Judge

  
Date

  
Nancy E. Manley, Secretary to the Commission